

Message Text

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TO AMEMBASSY BUENOS AIRES

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S/IL FOR DALE GOOD

DEPT PASS LABOR FOR SEGALL, HOROWITZ, QUACKENBUSH, AVERY AND
LINSENMEYER

DEPT PASS COMMERCE FOR UPTON

E.O. 11652: N/A

TAGS: ETEL, ITU

SUBJECT: ILO: FAC ACTION IN ARGENTINE CASES 836 AND 842

REF: (A) BUENOS AIRES 7853 (B) GB 201/11/23, 160TH REPORT OF FAC

1. AS ADDRESSEES AWARE, PROCEEDINGS OF ILO GOVERNING BODY
COMMITTEE ON FREEDOM OF ASSOCIATION (FAC) ARE CLOSED AND U.S.
IS NOT MEMBER. EVEN MEMBERS OF FAC ARE NOT ALLOWED IN THE
ROOM DURING PROCEEDINGS CONCERNING THEIR COUNTRY. THUS, NEITHER
CASILDO HERRERAS (WORKERS MEMBER) NOR ANTONIO VITAIC JAKASA
(EMPLOYER MEMBER) WERE PRESENT WHEN FAC CONSIDERED WORLD
CONFEDERATION OF LABOR (WCL) ALLEGATIONS AGAINST GOA CONCERNING
ABDUCTION OF JOSE PALACIOS (CASE 836) OR ALLEGATIONS OF WCL,
WORLD FEDERATION OF TRADE UNIONS (WFTU) AND NATIONAL CONFEDERATION
OF WORKERS OF PERU AGAINST GOA (CASE 842). SECRETARIAT
TOLD US DISCUSSION OF LATTER CASE WAS LIMITED BECAUSE
OF INTERIM NATURE OF GOA REPLY AND THAT GOA MADE "FORCEFUL
PRESENTATION" ON TEMPORARY NATURE OF SITUATION. SPOKESMAN
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FOR WORKERS DURING PROCEEDINGS WAS JOE MORRIS OF CANADIAN
LABOR CONGRESS. TEXT OF FAC REPORT (REF B) HAS BEEN
POUCHED TO BUENOS AIRES. RECOMMENDATIONS AND PERTINENT PARAS
FOR CASE 836 FOLLOW IN PARAS TWO AND THREE BELOW. THOSE

FOR CASE 842 ARE IN PARAS FOUR AND FIVE BELOW.

2. BEGIN TEXT: 315. IN THESE CIRCUMSTANCES THE COMMITTEE RECOMMENDS THE GOVERNING BODY:

(A) TO DRAW THE GOVERNMENT'S ATTENTION TO THE PRINCIPLES SET OUT IN PARAGRAPH 313 ABOVE;

(B) TO NOTE THAT THE GOVERNMENT HAS HAD INVESTIGATIONS MADE AS REGARDS THE WHEREABOUTS OF JOSE PALACIOS;

(C) TO REQUEST THE GOVERNMENT TO CONTINUE THESE INVESTIGATIONS AND TO COMMUNICATE ANY INFORMATION WHICH MAY COME TO LIGHT CONCERNING HIS FATE;

(D) TO TAKE NOTE OF THE PRESENT INTERIM REPORT, IT BEING UNDERSTOOD THAT THE COMMITTEE WILL SUBMIT ANOTHER REPORT WHEN IT HAS RECEIVED THE INFORMATION REQUESTED. END TEXT.

3. BEGIN TEXT: 313. THE COMMITTEE HAS ALREADY HAD OCCASION TO POINT OUT THAT, WHILE A GOVERNMENT CANNOT BE HELD RESPONSIBLE FOR EVENTS WHICH HAVE OCCURRED UNDER ANOTHER GOVERNMENT, IT IS CLEARLY RESPONSIBLE FOR ANY EFFECTS WHICH SUCH EVENTS MAY CONTINUE TO HAVE SINCE IT CAME TO POWER. WHEN THERE IS A CHANGE OF GOVERNMENT IN A COUNTRY THE NEW GOVERNMENT SHOULD TAKE ALL MEASURES NECESSARY TO REMEDY ANY CONSEQUENCES WHICH THE ALLEGED ACTIONS SAY CONTINUE TO PRODUCE EVEN THOUGH THEY TOOK PLACE UNDER ITS PREDECESSOR. END TEXT.

4. BEGIN TEXT: 444. IN ALL THESE CIRCUMSTANCES AND WITH REGARD TO THE CASE AS A WHOLE, THE COMMITTEE RECOMMENDS THE GOVERNING BODY:

(A) WITH REGARD TO THE TAKING OVER BY THE GOVERNMENT OF THE GENERAL CONFEDERATION OF LABOUR AND A NUMBER OF OTHER TRADE UNION ORGANISATIONS, AND THE GENERAL RESTRICTIONS IMPOSED ON THE ACTIVITIES OF WORKERS' AND EMPLOYERS' LIMITED OFFICIAL USE
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ORGANISATIONS,

(I) TO TAKE NOTE OF THE GOVERNMENT'S EXPLANATIONS AND STATEMENTS, ESPECIALLY AS REGARDS THE TEMPORARY AND EMERGENCY NATURE OF THESE MEASURES AND ITS INTENTION TO RE-ESTABLISH A NORMAL TRADE UNION SITUATION;

(II) TO DRAW THE ATTENTION OF THE GOVERNMENT TO THE PRINCIPLES AND CONSIDERATIONS SET FORTH IN PARAGRAPHS 440, 442 AND 443 AND, IN PARTICULAR, TO THE RIGHT OF THESE ORGANISATIONS TO ELECT THEIR REPRESENTATIVES IN FULL FREEDOM, TO ORGANISE THEIR ADMINISTRATION AND ACTIVITIES AND TO FORMULATE THEIR PROGRAMMES,

AS ESTABLISHED IN ARTICLE B OF CONVENTION NO. 87, RATIFIED BY ARGENTINA;

(III) TO REQUEST THE GOVERNMENT TO INDICATE THE MEASURES WHICH IT INTENDS TO TAKE OR HAS TAKEN IN THIS CONNECTION AND TO KEEP THE GOVERNMENT BODY INFORMED OF ANY DEVELOPMENTS IN THE MATTER; AND TO DRAW THE ATTENTION OF THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS TO THIS ASPECT OF THE CASE;

(B) WITH REGARD TO THE ARREST AND DETENTION OF TRADE UNIONISTS,

(I) TO NOTE THAT ALBERTO IGANCIO CAMPOS HAS BEEN RELEASED;

(88) TO NOTE THAT MIGUEL UNAMUNO, FRANCISCO ESQUERRA AND ALEIS BOVELLA HAVE BEEN CHARGED WITH FRAUDULENT ACTS AND TO REQUEST THE GOVERNMENT TO TRANSMIT THE TEXTS OF THE JUDGMENTS RENDERED BY THE COURTS CONCERNING THESE PERSONS;

(III) TO NOTE THAT 17 WORKERS OF THE "PLOGHI SRL" UNDERTAKING IN CORDOBA HAVE BEEN RELEASED, AND TO DRAW THE ATTENTION OF THE GOVERNMENT TO THE PRINCIPLE MENTIONED IN PARAGRAPH 438 WITH REGARD TO THE ARREST OF TRADE UNIONISTS AGAINST WHOM NO GROUNDS FOR CONVICTION ARE SUBSEQUENTLY FOUND;

(IV) TO REQUEST THE GOVERNMENT TO SUBMIT FURTHER AND AS PRECISE INFORMATION AS POSSIBLE CONCERNING ALL THE TRADE UNIONISTS NAMED BY THE COMPLAINANTS AS HAVING BEEN ARRESTED, INCLUDING JUAN VASQUESL, AND TO DRAW THE ATTENTION OF THE GOVERNMENT TO LIMITED OFFICIAL USE
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THE PRINCIPLE MENTIONED IN PARAGRAPH 439 THAT ALL ARRESTED PERSONS SHOULD BE SUBJECT WITHOUT DELAY TO NORMAL JUDICIAL PROCEDURE;

(C) TO TAKE NOTE OF THIS INTERIM REPORT, IT BEING UNDERSTOOD THAT THE COMMITTEE WILL SUBMIT A FURTHER REPORT WHEN IT HAS RECEIVED THE INFORMATION REQUESTED ABOVE. END TEXT.

5. BEGIN TEXT: 439. THE COMMITTEE HAS ALSO INSISTED UPON THE IMPORTANCE WHICH SHOULD BE ATTACHED TO THE PRINCIPLE THAT ANYONE WHO IS ARRESTED SHOULD BE INFORMED, AT THE TIME OF HIS ARREST, OF THE REASONS FOR HIS ARREST AND SHOULD BE PROMPTLY INFORMED OF THE CHARGES BROUGHT AGAINST HIM. IN ADDITION, THE COMMITTEE HAS EMPHASIZED THE IMPORTANCE THAT SHOULD BE ATTACHED TO THE PRINCIPLE THAT ALL ARRESTED PERSONS SHOULD BE SUBJECT TO NORMAL JUDICIAL PROCEDURE IN ACCORDANCE WITH THE PRINCIPLES ENSHRINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, AND IN ACCORDANCE WITH THE PRINCIPLE THAT IT IS A FUNDAMENTAL RIGHT OF THE INDIVIDUAL THAT A DETAINED PERSON SHOULD BE BROUGHT WITHOUT DELAY BEFORE THE

APPROPRIATE JUDGE, THIS RIGHT BEING RECOGNISED IN SUCH INSTRUMENTS AS THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, THE AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN AND THE AMERICAN CONVENTION OF HUMAN RIGHTS.

440. WITH REGARD TO THE TAKING OVER BY THE GOVERNMENT OF THE GENERAL CONFEDERATION OF LABOUR AND TRADE UNION ORGANISATIONS THROUGHOUT THE COUNTRY, THE COMMITTEE HAS CONSIDERED IN THE PAST THAT WHILE CERTAIN EVENTS OF AN EXCEPTIONAL KIND IN A COUNTRY MAY HAVE WARRANTED INTERVENTION BY THE AUTHORITIES, THE TAKING OVER OF A TRADE UNION MUST BE TEMPORARY AND AIMED SOLELY AT PERMITTING THE ORGANISATION OF FREE ELECTIONS.

441. THE COMMITTEE NOTES THAT THE GOVERNMENT HAS EMPHASISED IN ITS REPLY TO THE COMPLAINTS THAT THE MEASURES TAKEN WITH REGARD TO THOSE UNIONS WHICH HAVE BEEN TAKEN OVER ARE OF A TEMPORARY NATURE AND ARE DESIGNED TO LEAD TO A NORMALISATION OF THE TRADE UNION MOVEMENT IN THE COUNTRY.

442. THE COMPLAINANTS ALSO REFER TO THE GENERAL RESTRICTIONS IMPOSED ON TRADE UNION ACTIVITIES. DECREE NO. 9 OF 24 MARCH
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1976 PROVISIONALLY SUSPENDS ALL OCCUPATIONAL ACTIVITIES OF WORKERS' AND EMPLOYERS' ORGANISATIONS, EXCEPT AS REGARDS THE INTERNAL ADMINISTRATION OF THE ORGANISATIONS AND ITS WELFARE ACTIVITIES. ACT NO. 21.356 OF 22 JULY 1976 INCLUDES IN THE RESTRICTIONS THE ELECTION OF TRADE UNION OFFICERS AND THE HOLDING OF MEETINGS. SUCH MEETINGS MAY ONLY BE HELD WITH THE AUTHORISATION OF THE MINISTER FOR PURPOSES RELATED TO THE INTERNAL ADMINISTRATION OF THE ORGANISATIONS AND ITS WELFARE SCHEMES. THE COMMITTEE WISHES TO POINT OUT THAT THESE PROVISIONS SEVERELY RESTRICT THE RIGHT GUARANTEED BY ARTICLE 3 OF CONVENTION NO. 87 OF WORKERS' AND EMPLOYERS' ORGANISATIONS TO ORGANISE THEIR ADMINISTRATION AND ACTIVITIES AND TO FORMULATE THEIR PROGRAMMES. IN THIS RESPECT, THE COMMITTEE NOTES, IN PARTICULAR, THAT ACCORDING TO THE GOVERNMENT, ALL THE MEASURES TAKEN ARE OF AN EMERGENCY AND TEMPORARY NATURE AND THAT THE GOVERNMENT IS ENGAGED IN CREATING LEGAL AND FACTUAL CONDITIONS IN ORDER TO RETURN TO NORMAL TRADE UNION ACTIVITY.

443. THE COMMITTEE ALSO NOTES THE STATEMENT OF THE GOVERNMENT THAT THE RESTRICTION ON THE RIGHT TO COLLECTIVE BARGAINING AND TO STRIKE ARE TEMPORARY MEASURES AND WERE NECESSARY IN VIEW OF THE GRAVE ECONOMIC SITUATION OF THE COUNTRY. THE COMMITTEE WISHES TO RECALL THAT A GENERAL PROHIBITION OF STRIKES IS AN IMPORTANT RESTRICTION OF ONE OF THE ESSENTIAL MEANS BY WHICH THE WORKERS AND THEIR ORGANISATIONS CAN PROMOTE AND DEFEND THEIR OCCUPATIONAL INTERESTS AND THEREFORE SUCH A PROHIBITION SHOULD BE IMPOSED EXCLUSIVELY AS A TRANSITORY MEASURE IN A SITUATION OF ACUTE NATIONAL EMERGENCY. IN A SIMILAR MANNER, THE COMMITTEE

HAS ALSO CONSIDERED THAT IF AS PART OF ITS
STABILISATION POLICY A GOVERNMENT CONSIDERS THAT WAGE RATES
CANNOT BE SETTLED FREELY THROUGH COLLECTIVE BARGAINING, SUCH
RESTRICTION SHOULD BE IMPOSED AS AN EXCEPTIONAL MEASURE AND ONLY
TO THE EXTENT THAT IT IS NECESSARY WITHOUT EXCEEDING A REASON-
ABLE PERIOD, AND IT SHOULD BE ACCOMPANIED BY ADEQUATE
SAFEGUARDS TO PROTECT WORKERS' LIVING STANDARDS. END TEXT.
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